

**Introduced by Senator Florez**

December 14, 2004

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An act to amend Sections 130140 and 130150 of, and to add Section 130151 to, the Health and Safety Code, relating to child development.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as introduced, Florez. California Children and Families Program.

(1) The California Children and Families Act of 1998, an initiative measure, requires that the California Children and Families Program, established by the act, be funded by surtaxes imposed on the sale and distribution of cigarettes and tobacco products and deposited into the California Children and Families Trust Fund, and that the fund be used for the implementation of comprehensive early childhood development and smoking prevention programs. Existing law establishes a state commission, First 5 California, with powers and duties relating to the administration of the act on a state level, and authorizes a county's board of supervisors to establish a county children and families commission to administer the act on a county level.

Existing law requires county commissions, for each fiscal year, to receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the number of births recorded in all of the counties participating in the California Children and Families Program (for the same period), if certain requirements are met.

This bill would add to these requirements that the county commission, in a public hearing, adopt policies regarding conflict of

interest of commission members and commission contracting and procurement policies, and that the county adopt a limit on the percentage of the county commission's revenue that may be spent on administrative functions.

Existing law requires each county commission to conduct an audit of, and issue a written report on the implementation and performance of, its functions during the proceeding fiscal year, and requires the state commission to prepare a written report that consolidates, summarizes, analyzes, and comments on the annual audits and reports submitted by all of the county commissions.

This bill would require each county commission to submit in its audit report a list, by category, of all program areas funded, in a format prescribed by the state commission. The bill would require that the state commission's report include a listing, by category, of the aggregate expenditures on program areas funded by the state and county commissions. It would also authorize the state commission to withhold funds that would otherwise be allocated to the county commission from the California Children and Families Trust Fund in the event a county commission does not submit data for the written report.

This bill, in addition, would require the Controller to audit each county commission and the state commission every 3 years, prescribe the scope of the audit, and would authorize the Controller to recommend to the state commission to withhold the annual allocation of money to a county commission until the county commission has a viable plan and the ability to correct the practices identified in the audit.

(2) The California Constitution provides that the Legislature may amend an initiative statute by another statute that becomes effective only when approved by the voters unless the initiative statute permits amendment without voter approval. The act provides that it may be amended only by a vote of 2/3 of the membership of both houses of the Legislature and that all amendments pursuant to this provision shall be to further the act and must be consistent with its purposes.

This bill, in conformance with those requirements, would declare that its provisions further the act and are consistent with its purposes.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 130140 of the Health and Safety Code is amended to read:

130140. Any county or counties developing, adopting, promoting, and implementing local early childhood development programs consistent with the goals and objectives of this act shall receive moneys pursuant to paragraph (2) of subdivision (d) of Section 130105 in accordance with the following provisions:

(a) For the period between January 1, 1999 and June 30, 2000, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the entire number of births recorded in California (for the same period), provided that each of the following requirements has first been satisfied:

(1) The county's board of supervisors has adopted an ordinance containing the following minimum provisions:

(A) The establishment of a county children and families commission. The county commission shall be appointed by the board of supervisors and shall consist of at least five but not more than nine members.

(I) Two members of the county commission shall be from among the county health officer and persons responsible for management of the following county functions: children's services, public health services, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services.

(ii) One member of the county commission shall be a member of the board of supervisors.

(iii) The remaining members of the county commission shall be from among the persons described in clause (I) and persons from the following categories: recipients of project services included in the county strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, or a local child care coordinating group; representatives of a local organization for prevention or early intervention for families at risk; representatives of community-based organizations that have the goal of promoting nurturing and early childhood development;

1 representatives of local school districts; and representatives of  
2 local medical, pediatric, or obstetric associations or societies.

3 (B) The manner of appointment, selection, or removal of  
4 members of the county commission, the duration and number of  
5 terms county commission members shall serve, and any other  
6 matters that the board of supervisors deems necessary or  
7 convenient for the conduct of the county commission's activities,  
8 provided that members of the county commission shall not be  
9 compensated for their services, except they shall be paid  
10 reasonable per diem and reimbursement of reasonable expenses  
11 for attending meetings and discharging other official  
12 responsibilities as authorized by the county commission.

13 (C) The requirement that the county commission adopt an  
14 adequate and complete county strategic plan for the support and  
15 improvement of early childhood development within the county.

16 (I) The county strategic plan shall be consistent with, and in  
17 furtherance of the purposes of, this act and any guidelines  
18 adopted by the state commission pursuant to subdivision (b) of  
19 Section 130125 that are in effect at the time the plan is adopted.

20 (ii) The county strategic plan shall, at a minimum, include the  
21 following: a description of the goals and objectives proposed to  
22 be attained; a description of the programs, services, and projects  
23 proposed to be provided, sponsored, or facilitated; and a  
24 description of how measurable outcomes of such programs,  
25 services, and projects will be determined by the county  
26 commission using appropriate reliable indicators. No county  
27 strategic plan shall be deemed adequate or complete until and  
28 unless the plan describes how programs, services, and projects  
29 relating to early childhood development within the county will be  
30 integrated into a consumer-oriented and easily accessible system.

31 (iii) The county commission shall, on at least an annual basis,  
32 be required to periodically review its county strategic plan and to  
33 revise the plan as may be necessary or appropriate.

34 (D) The requirement that the county commission conduct at  
35 least one public hearing on its proposed county strategic plan  
36 before the plan is adopted.

37 (E) The requirement that the county commission conduct at  
38 least one public hearing on its periodic review of the county  
39 strategic plan before any revisions to the plan are adopted.

1 (F) The requirement that the county commission submit its  
2 adopted county strategic plan, and any subsequent revisions  
3 thereto, to the state commission.

4 (G) The requirement that the county commission prepare and  
5 adopt an annual audit and report pursuant to Section 130150. The  
6 county commission shall conduct at least one public hearing prior  
7 to adopting any annual audit and report.

8 (H) The requirement that the county commission conduct at  
9 least one public hearing on each annual report by the state  
10 commission prepared pursuant to subdivision (b) of Section  
11 130150.

12 (I) Two or more counties may form a joint county  
13 commission, adopt a joint county strategic plan, or implement  
14 joint programs, services, or projects.

15 (2) The county's board of supervisors has established a county  
16 commission and has appointed a majority of its members.

17 (3) The county has established a local Children and Families  
18 Trust Fund pursuant to subparagraph (A) of paragraph (2) of  
19 subdivision (d) of Section 130105.

20 (b) Notwithstanding any provision of this act to the contrary,  
21 no moneys made available to county commissions under  
22 subdivision (a) shall be expended to provide, sponsor, or  
23 facilitate any programs, services, or projects for early childhood  
24 development until and unless the county commission has first  
25 adopted an adequate and complete county strategic plan that  
26 contains the provisions required by clause (ii) of subparagraph  
27 (C) of paragraph (1) of subdivision (a).

28 (c) In the event that any county elects not to participate in the  
29 California Children and Families Program, the moneys remaining  
30 in the California Children and Families Trust Fund shall be  
31 reallocated and reappropriated to participating counties in the  
32 following fiscal year.

33 (d) For the fiscal year commencing on July 1, 2000, and for  
34 each fiscal year thereafter, county commissions shall receive the  
35 portion of the total moneys available to all county commissions  
36 equal to the percentage of the number of births recorded in the  
37 relevant county (for the most recent reporting period) in  
38 proportion to the number of births recorded in all of the counties  
39 participating in the California Children and Families Program

(for the same period), provided that each of the following requirements has first been satisfied:

(1) The county commission has, after the required public hearings, adopted an adequate and complete county strategic plan conforming to the requirements of subparagraph (C) of paragraph (1) of subdivision (a), and has submitted the plan to the state commission.

(2) The county commission has conducted the required public hearings, and has prepared and submitted all audits and reports required pursuant to Section 130150.

(3) The county commission has conducted the required public hearings on the state commission annual reports prepared pursuant to subdivision (b) of Section 130150.

*(4) The county commission, in a public hearing, has adopted policies that are consistent with state law and establish the commission's policies regarding the following:*

*(A) Conflict of interest of commission members.*

*(B) Commission contracting and procurement policies.*

*(5) The county commission, in a public hearing, has adopted a limit on the percentage of the county commission's revenue that may be spent on administrative functions.*

(e) In the event that any county elects not to continue participation in the California Children and Families Program, any unencumbered and unexpended moneys remaining in the local Children and Families Trust Fund shall be returned to the California Children and Families Trust Fund for reallocation and reappropriation to participating counties in the following fiscal year.

(f) For purposes of this section, "relevant county" means the county in which the mother of the child whose birth is being recorded resides.

SEC. 2. Section 130150 of the Health and Safety Code is amended to read:

130150. (a) On or before October 15 of each year, each county commission shall conduct an audit of, and issue a written report on the implementation and performance of, its functions during the preceding fiscal year, including, at a minimum, the manner in which funds were expended, the progress toward, and the achievement of, program goals and objectives, and the

1 measurement of specific outcomes through appropriate reliable  
2 indicators.

3 ~~(a) The audits and reports of each county commission shall be~~  
4 ~~transmitted to the state commission. Each county commission~~  
5 ~~shall submit its audit and report to the state commission for~~  
6 ~~inclusion in the state commission's consolidated report required~~  
7 ~~in subdivision (b). In its report, each county commission shall~~  
8 ~~list, by category, all program areas funded in a format~~  
9 ~~prescribed by the state commission.~~

10 (b) The state commission shall, on or before January 31 of  
11 each year, do both of the following:

12 (1) Conduct an audit and prepare a written report on the  
13 implementation and performance of the state commission  
14 functions during the preceding fiscal year, including, at a  
15 minimum, the manner in which funds were expended and the  
16 progress toward, and the achievement of, program goals and  
17 objectives.

18 (2) Prepare a written report that consolidates, summarizes,  
19 analyzes, and comments on the annual audits and reports  
20 submitted by all of the county commissions *and the Controller*  
21 *for the preceding fiscal year. The written report shall include a*  
22 *listing, by category, of the aggregate expenditures on program*  
23 *areas funded by the state and county commissions pursuant to*  
24 *the purposes of this act, according to a format prescribed by the*  
25 *state commission.* This report by the state commission shall be  
26 transmitted to the Governor, the Legislature, and each county  
27 commission.

28 (3) *In the event a county commission does not submit data for*  
29 *the written report in the manner prescribed in subdivision (a),*  
30 *the state commission may withhold funds that would otherwise*  
31 *have been allocated to the county commission from the*  
32 *California Children and Families Trust Fund pursuant to Section*  
33 *130140.*

34 (c) The state commission shall make copies of each of its  
35 annual audits and reports available to members of the general  
36 public on request and at no cost. The state commission shall  
37 furnish each county commission with copies of those documents  
38 in a number sufficient for local distribution by the county  
39 commission to members of the general public on request and at  
40 no cost.

1 (d) Each county commission shall make copies of its annual  
2 audits and reports available to members of the general public on  
3 request and at no cost.

4 SEC. 3. Section 130151 is added to the Health and Safety  
5 Code, to read:

6 130151. (a) In addition to the requirements in Section  
7 130150, the Controller shall audit each county commission and  
8 the state commission every three years. The Controller shall audit  
9 one-third of the county commissions each year. Nothing in this  
10 section shall be construed to preclude the Controller from  
11 auditing contractors of county commissions.

12 (b) The scope of the audits shall address, at a minimum, a  
13 review of the following elements:

14 (1) Contracting and procurement policies, to determine  
15 whether they are in place pursuant to paragraph (4) of  
16 subdivision (d) of Section 130140, whether state and county  
17 commissions are operating in accordance with these policies, and  
18 whether grants and contracts are consistent with the state or  
19 county commission's strategic plan.

20 (2) Policies that define administrative costs, to ensure that  
21 these policies are in place and to determine that the commission  
22 is adhering to them.

23 (3) Compliance by the state commission and county  
24 commissions with all appropriate state and local  
25 conflict-of-interest statutes and regulations.

26 (4) County commission ordinances, established pursuant to  
27 Section 130140, to determine whether county commissions are  
28 adhering to them.

29 (5) Long-range financial plans, to determine whether state and  
30 county commissions have these plans and that the plans have  
31 been formally adopted by the commission in a public hearing.

32 (6) Financial condition of the commission.

33 (7) Amount commissions spend on evaluation and program  
34 monitoring and the documented results of these expenditures.

35 (8) Salaries and benefits, to determine whether these salaries  
36 and benefits are consistent with other state, county, or  
37 independent public agency employees in similar positions, or  
38 with an employee compensation policy that has been adopted by  
39 a county commission in a public hearing.



1 (c) The Controller shall submit each audit report, upon  
2 completion, simultaneously to both the state commission and the  
3 respective county commission.

4 (d) The state commission and each respective county  
5 commission shall schedule a public hearing within two months of  
6 receipt of the audit to discuss findings within the report and any  
7 response to the findings. Within two weeks of the public hearing,  
8 the state or county commission shall submit to the Controller a  
9 response to the audit findings.

10 (e) Within six months of the state or county commission's  
11 response pursuant to subdivision (d), the Controller shall  
12 determine whether a county commission has successfully  
13 corrected its practices in response to the findings contained in the  
14 audit report. The Controller may, after that determination,  
15 recommend to the state commission to withhold the allocation of  
16 money that the county commission would otherwise receive from  
17 the California Children and Families Trust Fund until the  
18 Controller determines that the county commission has a viable  
19 plan and the ability to correct the practices identified in the audit.

20 (f) The Controller shall prepare a summary report of the final  
21 audits and submit the report to the state commission by  
22 November 1 of each year for inclusion in the annual report  
23 required pursuant to subdivision (b) of Section 130150.

24 (g) On or before December 31, 2006, the Controller shall  
25 present to the state commission the final scope of the audit plan  
26 and the schedule of county commissions to be audited.

27 SEC. 4. The Legislature finds and declares that this act  
28 furthers the California Children and Families Act of 1998  
29 enacted by Proposition 10 at the November 3, 1998, general  
30 election, and is consistent with its purposes.